EPA's supplemental proposal to the 2020 Renewable Fuel Standard RVOs is based on false assumptions, and is unauthorized and unprecedented writes AFPM in official comments submitted to the Agency. The supplemental rule comes on top of an RVO proposal that seeks to impose the highest biofuel volume mandates in history and force more biofuels into the gasoline supply than is technologically feasible. The combination of these two proposals would hurt refiners and the millions of jobs they support across the U.S.

The president's promise to protect manufacturing jobs is not reflected in the supplemental proposal. In its current form, the rule is unlawful.

A summary and excerpts from AFPM's comments are below:

- **The push to reallocate biofuel requirements is driven by the false narrative that SREs have eroded biofuel market share, an assertion that doesn't align with market data.**
    - Biofuel production and use are at or near all-time highs. Thus, there are no lost volumes to reallocate.
- **Congress provided EPA with several tools to reduce RFS volumes. It did not grant EPA the authority to reallocate.**
    - While Congress directly spoke to the obligation to provide exemptions to small refineries, Congress did not provide statutory authority for EPA to reallocate the exempt volumes by adjusting percentage standards to account for projected small refinery exemptions.
    - In the earliest RFS rulemakings, EPA made clear: Periodic revisions to the standards to reflect exemptions issued to small refineries would be inconsistent with the statutory text and would introduce uncertainty for obligated parties.
- **EPA's proposed methodology for setting volumes violates court rulings.**
    - EPA's underlying proposal is based on assessment of the maximum amount of renewable fuel that can be produced and blended into the 2020 transportation fuel supply.
    - The net effect of the supplemental proposal is to increase annual percentage standards for all obligated parties. Thus, EPA has adopted a prohibited "methodology in which the risk of overestimation is set deliberately to outweigh the risk of underestimation."
- **The supplemental rule incorrectly presumes that exempted refineries used do not use any biofuels.**
    - Exempted small refineries directly and indirectly use renewable fuels… EPA data demonstrate that exempt refineries generated more than 1.4 billion RINs in 2018. It would be arbitrary, capricious and contrary to law for EPA to fail to take this use into consideration when establishing 2020 RVOs.
    - Reallocating ethanol volumes already achieved by exempted small refineries is a redundant obligation, a direct violation of statute.

AFPM's complete comments are available here.

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